

Conference Engrossed

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 314

SENATE BILL 1250

AN ACT

AMENDING SECTION 5-324, ARIZONA REVISED STATUTES; AMENDING TITLE 5, CHAPTER 3, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 11; RELATING TO TOWING OF WATERCRAFT.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 5-324, Arizona Revised Statutes, is amended, to
3 read:

4 5-324. Public records; identification of requester; supplying
5 information by mail; records custodians; certification
6 of records

7 A. All records of the department made or kept pursuant to this article
8 are public records.

9 B. The department shall furnish information or copies from the records
10 kept pursuant to this section subject to sections 39-121.01 and 39-121.03.

11 C. ~~A person~~ PERSONS requesting a copy of a public record pursuant to
12 this section shall identify himself THEMSELVES and state the reason for
13 making the request. The department shall verify the name and address of the
14 person making the request by requiring him THE PERSON to produce necessary
15 information to ensure that the information given is true and correct.

16 D. The department shall not divulge any information from a watercraft
17 registration record unless the person requesting the information provides the
18 following:

- 19 1. The name of the owner.
- 20 2. The hull identification number of the watercraft.
- 21 3. The department issued number assigned to the watercraft.

22 E. The procedures required by subsections C and D of this section do
23 not apply to:

- 24 1. This state or any of its departments, agencies or political
25 subdivisions.
- 26 2. A court.
- 27 3. A law enforcement officer.
- 28 4. A licensed private investigator.
- 29 5. Financial institutions and enterprises under the jurisdiction of
30 the state banking department or a federal monetary authority.
- 31 6. The federal government or any of its agencies.
- 32 7. An attorney admitted to practice in this state who alleges the
33 information is relevant to any pending or potential court proceeding.

34 8. A TOWING COMPANY LOCATED IN THIS STATE THAT ALLEGES BOTH OF THE
35 FOLLOWING:

36 (a) THAT THE WATERCRAFT ON WHICH THE TOWING COMPANY IS REQUESTING THE
37 RECORD IS IN THE TOWING COMPANY'S POSSESSION.

38 (b) THAT THE RECORD IS REQUESTED TO ALLOW THE TOWING COMPANY TO NOTIFY
39 THE REGISTERED OWNER AND ANY LIENHOLDERS OF RECORD, IF KNOWN, OF THE TOWING
40 COMPANY'S INTENT TO SELL THE WATERCRAFT.

41 F. The department may supply the requested information by mail or
42 telecommunications.

43 G. The director may designate as custodian of the department's public
44 records those department employees he THE DIRECTOR deems necessary. If a
45 public record of the department has been certified by a records custodian and

1 authenticated as required under proof of records (records of public
2 officials), rules of civil procedure and the rules of evidence for courts in
3 this state, it is admissible in evidence without further foundation.

4 H. Notwithstanding subsection D of this section, information may be
5 supplied for commercial purposes, as defined in section 39-121.03, if the
6 information is transmitted in a machine readable form such as computer
7 magnetic tape to the person making the request.

8 I. The department shall maintain for a period of at least one year a
9 file of requests for information which THAT shall be maintained by the name
10 of the person whose record was requested, except those requests made by
11 government agencies.

12 Sec. 2. Title 5, chapter 3, Arizona Revised Statutes, is amended by
13 adding article 11, to read:

14 ARTICLE 11. TOWING OF WATERCRAFT

15 5-397. Towing companies

16 A. IF A TOWING COMPANY TOWS A WATERCRAFT, THE TOWING COMPANY SHALL
17 PROVIDE WRITTEN NOTIFICATION BY MAIL TO THE OWNER AND LIENHOLDER, IF KNOWN,
18 OF THE WATERCRAFT'S LOCATION. THE TOWING COMPANY SHALL OBTAIN THE OWNER AND
19 LIENHOLDER INFORMATION PURSUANT TO SECTION 5-324.

20 B. IF THE WATERCRAFT'S OWNER OR LIENHOLDER, IF KNOWN, DOES NOT REMOVE
21 THE WATERCRAFT FROM THE TOWING COMPANY'S PREMISES WITHIN FIFTEEN DAYS OF
22 MAILING OF NOTICE UNDER SUBSECTION A OF THIS SECTION, THE TOWING COMPANY
23 SHALL:

24 1. REPORT THE WATERCRAFT ON FORMS PRESCRIBED BY THE DIRECTOR OF THE
25 ARIZONA GAME AND FISH DEPARTMENT.

26 2. SUBMIT THE REPORT TO THE DIRECTOR OF THE ARIZONA GAME AND FISH
27 DEPARTMENT.

28 5-397.01. Abandoned watercraft; notice of intent to transfer
29 ownership

30 A. ON RECEIPT OF A REPORT AS REQUIRED BY THIS ARTICLE, THE DIRECTOR
31 SHALL DETERMINE THE NAMES AND ADDRESSES OF THE OWNER AND LIENHOLDER, IF
32 KNOWN, OR ANY OTHER PERSON IDENTIFIED ON THE DEPARTMENT'S RECORD WHO MAY HAVE
33 AN INTEREST IN THE WATERCRAFT BY EITHER:

34 1. SEARCHING THE DEPARTMENT RECORDS.

35 2. ASKING THE WATERCRAFT REGISTRATION AGENCY OF ANOTHER STATE IF THE
36 WATERCRAFT IS REGISTERED IN THAT STATE.

37 B. ON RECEIPT OF INFORMATION FROM REPORTS PURSUANT TO SECTION 5-397
38 AND AFTER DETERMINING THE NAMES AND ADDRESSES OF THE OWNER AND LIENHOLDER,
39 IF KNOWN, OR ANY OTHER PERSON IDENTIFIED ON THE DEPARTMENT'S RECORD WHO MAY
40 HAVE AN INTEREST IN THE WATERCRAFT, THE DIRECTOR SHALL NOTIFY ALL INTERESTED
41 PERSONS BY MAIL WITHIN FIVE BUSINESS DAYS FOR A WATERCRAFT WITH A RECORD IN
42 THIS STATE OR WITHIN THIRTY DAYS FOR ALL OTHER WATERCRAFT. THE NOTICE SHALL
43 INCLUDE:

44 1. A COMPLETE DESCRIPTION OF THE WATERCRAFT.

1 2. A NOTICE OF INTENT TO TRANSFER OWNERSHIP OF THE WATERCRAFT TO THE
2 TOWING COMPANY IN POSSESSION OF THE WATERCRAFT IF WITHIN THIRTY DAYS FROM THE
3 DATE INDICATED IN THE NOTIFICATION BY THE DEPARTMENT THE OWNER OR LIENHOLDER,
4 IF KNOWN, OR A PERSON WHO HAS AN INTEREST IN THE WATERCRAFT DOES NOT NOTIFY
5 THE DEPARTMENT OF THE OWNER'S, LIENHOLDER'S, IF KNOWN, OR PERSON'S INTEREST
6 IN THE WATERCRAFT AND CLAIM THE WATERCRAFT.

7 3. THE WATERCRAFT'S HULL IDENTIFICATION NUMBER.

8 4. THE STATE ISSUED REGISTRATION NUMBER ASSIGNED TO THE WATERCRAFT.

9 5. THE PLACE FROM WHICH AND DATE THE WATERCRAFT WAS TOWED.

10 6. THE STORAGE LOCATION OF THE WATERCRAFT.

11 C. IF THE RECORDS OF THE DEPARTMENT OR OUT OF STATE JURISDICTION DO
12 NOT DISCLOSE THE NAMES AND ADDRESSES OF THE OWNER AND LIENHOLDER, IF ANY, OR
13 ANY OTHER PERSON IDENTIFIED ON THE DEPARTMENT'S RECORD WHO MAY HAVE AN
14 INTEREST IN THE WATERCRAFT, OR IF THE NOTICE IS RETURNED MARKED UNCLAIMED OR
15 ADDRESS UNKNOWN, THE DEPARTMENT SHALL PUBLISH A NOTICE OF THE INTENT OF THE
16 DIRECTOR TO TRANSFER OWNERSHIP OF THE TOWED WATERCRAFT PURSUANT TO THIS
17 ARTICLE ONCE IN A NEWSPAPER OR OTHER PUBLICATION OF GENERAL CIRCULATION IN
18 THE COUNTY IN WHICH THE WATERCRAFT WAS TOWED. THE PUBLISHED NOTICE SHALL
19 INCLUDE A STATEMENT OF THE INTENT OF THE DIRECTOR TO TRANSFER OWNERSHIP OF
20 THE WATERCRAFT AFTER TEN DAYS OF THE PUBLISHED NOTICE AND THE DEPARTMENT
21 SHALL MAKE AVAILABLE TO THE PUBLIC A COMPLETE DESCRIPTION OF ABANDONED
22 WATERCRAFT SUBJECT TO TRANSFER OF OWNERSHIP.

23 D. THE TOWING COMPANY THAT FILED THE REPORT SHALL NOTIFY THE DIRECTOR
24 WITHIN TWENTY-FOUR HOURS AND IN THE MANNER PRESCRIBED BY THE DIRECTOR IF THE
25 WATERCRAFT IS RELEASED OR RETURNED TO OR REDEEMED OR REPOSSESSED BY THE
26 LAWFUL OWNER OR LIENHOLDER, IF ANY, OR ANY OTHER KNOWN PERSON WHO IS
27 IDENTIFIED ON THE DEPARTMENT'S RECORD WHO MAY HAVE AN INTEREST IN THE
28 WATERCRAFT.

29 5-397.02. Unclaimed watercraft; transfer of ownership;
30 violation; classification

31 A. IF A WATERCRAFT REMAINS UNCLAIMED AT THE EXPIRATION OF THE
32 DEADLINES PRESCRIBED IN SECTION 5-397.01, SUBSECTIONS B AND C, THE DIRECTOR
33 SHALL MAKE AN INQUIRY TO DETERMINE IF THE WATERCRAFT IS STOLEN. ON RECEIVING
34 NOTICE THAT THE WATERCRAFT HAS NOT BEEN REPORTED STOLEN, THE DIRECTOR MAY
35 TRANSFER OWNERSHIP OF THE WATERCRAFT TO THE TOWING COMPANY FREE AND CLEAR OF
36 ALL LIENS OR ENCUMBRANCES ON COMPLIANCE WITH THIS ARTICLE.

37 B. AN APPLICATION FOR TRANSFER OF OWNERSHIP SHALL BE COMPLETED AND
38 SIGNED BY THE TOWING COMPANY OR AUTHORIZED AGENT OF THE TOWING COMPANY AND
39 SHALL CONTAIN A CERTIFIED STATEMENT THAT INCLUDES THE FOLLOWING:

40 1. AS OF THE DATE OF APPLICATION, NO PERSON HAS PRESENTED PROOF OF
41 OWNERSHIP OR PROOF OF INTEREST IN THE WATERCRAFT AND ENTERED INTO AN
42 AGREEMENT FOR THE RELEASE OR RETURN OF THE WATERCRAFT.

43 2. THE TOWING COMPANY IS CURRENTLY IN POSSESSION OF THE WATERCRAFT.

1 C. THIS STATE AND ITS AGENCIES, EMPLOYEES AND AGENTS ARE NOT LIABLE
2 FOR RELYING IN GOOD FAITH ON THE CONTENTS OF THE REPORTS OR AFFIDAVITS AS
3 PRESCRIBED BY THIS ARTICLE.

4 D. IF A TOWING COMPANY COMPLIES WITH THIS ARTICLE, THE TOWING COMPANY
5 IN POSSESSION OF A WATERCRAFT IS NOT LIABLE FOR OBTAINING A TRANSFER OF
6 OWNERSHIP OF THE WATERCRAFT.

7 E. A TOWING COMPANY THAT OBTAINS WATERCRAFT PURSUANT TO THIS ARTICLE
8 SHALL MAINTAIN RECORDS OF ALL OF THE FOLLOWING:

- 9 1. THE REQUEST MADE PURSUANT TO SECTION 5-324.
10 2. THE NOTIFICATION PROVIDED PURSUANT TO SECTION 5-397.
11 3. THE APPLICATION FOR TRANSFER OF OWNERSHIP PURSUANT TO THIS SECTION.
12 4. ANY DOCUMENTS PERTAINING TO OWNERSHIP TRANSFER OF ABANDONED
13 WATERCRAFT THAT THE DIRECTOR DEEMS NECESSARY.

14 F. A TOWING COMPANY SHALL MAINTAIN THE RECORDS PRESCRIBED BY
15 SUBSECTION E OF THIS SECTION FOR THREE YEARS FROM THE DATE THE OWNERSHIP OF
16 THE WATERCRAFT IS TRANSFERRED. THE RECORDS MAY BE AUDITED BY ANY LAW
17 ENFORCEMENT OFFICER OR EMPLOYEE OF THE DEPARTMENT DURING NORMAL BUSINESS
18 HOURS.

19 G. A TOWER WHO FAILS TO MAINTAIN RECORDS AS PRESCRIBED IN THIS SECTION
20 IS GUILTY OF A CLASS 2 MISDEMEANOR.

21 5-397.03. Abandoned watercraft processing rules; fees
22 THE DEPARTMENT MAY:

- 23 1. ADOPT RULES TO CARRY OUT THE REQUIREMENTS OF THIS ARTICLE.
24 2. ESTABLISH FEES TO IMPLEMENT THIS ARTICLE.

25 Sec. 3. Delayed effective date

26 This act is effective from and after December 31, 2002.

APPROVED BY THE GOVERNOR MAY 28, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 29, 2002.

Passed the House April 29, 2002,

by the following vote: 46 Ayes,

10 Nays, 4 Not Voting

[Signature]
Speaker of the House

Norman L. Spore
Chief Clerk of the House

Passed the Senate March 21, 2002,

by the following vote: 22 Ayes,

7 Nays, 1 Not Voting
with Art. IX, Sec. 22

[Signature]
President of the Senate

Chaimin B. Dwyer
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

S.B. 1250

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

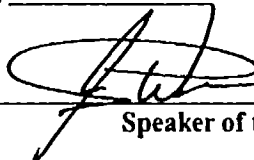
Secretary of State

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 20, 2002,

by the following vote: 50 Ayes,

8 Nays, 2 Not Voting


Speaker of the House

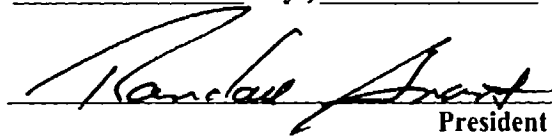
Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 16, 2002

by the following vote: 26 Ayes,

1 Nays, 3 Not Voting


President of the Senate

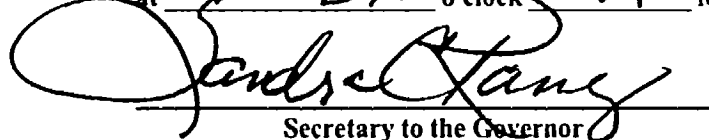
Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 21 day of May, 2002

at 10:21 o'clock A M.


Secretary to the Governor

Approved this 28 day of

May, 2002,

at 10:41 o'clock P M.

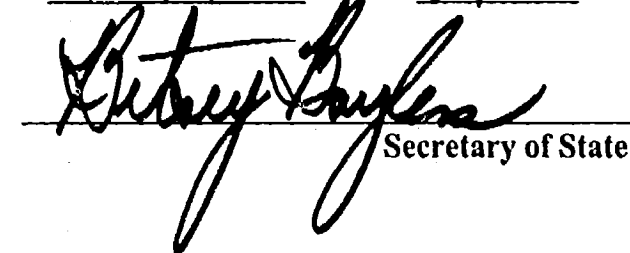
Janice K. Hull
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 29 day of May, 2002

at 11:19 o'clock A M.


Secretary of State

S.B. 1250